

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

I. STATUS OF CLAIMS

Claims 22-27 and 32-41 are pending in this application. Claims 22, 25, 27, 32, 36, 37 and 41 have been amended to more particularly point out and distinctly claim that which applicants regard as their invention. Claims 39 and 40 have been canceled herewith without prejudice.

It is respectfully submitted that no new matter has been added by virtue of this amendment. Support for the amended claims may be found throughout the specification as originally filed. In particular, support for the amendments to claims 27 and 36 can be found page 7, lines 14-23 and page 28 of the specification.

II. REJECTIONS UNDER 35 U.S.C § 112, FIRST PARAGRAPH

Claims 27 and 36 have been rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement on the grounds that "there does not appear to be any relationship disclosed in the original disclosure of a swipe card functioning to activate a motor which in turn launches an element".

Although Applicants disagree with the above rejection, claims 27 and 36 have been amended herewith in order to expedite the prosecution of the present application to now recite "...said swipe card reader operably coupled to the motor and to the launch mechanism, the swipe card reader configured to actuate the motor for propelling movement of the device and the launch mechanism for launching the launch element upon receiving a swipe card". Thus, now it is clear in claims 27 and 36, that it is the swipe card which is involved in the actuating the launch mechanism for launching the launch element of the interactive amusement device rather than the motor.

In view of the above actions taken, it is believed that this rejection has been overcome. Withdrawal of the above rejection is thus respectfully requested.

III. REJECTIONS UNDER 35 U.S.C § 112, SECOND PARAGRAPH

Claim 41 has been rejected under 35 U.S.C. 112, second paragraph as being indefinite on the grounds that claim dependency could not be established since this claim currently depends from previously canceled claim 1, and that the phrase "and/or" is also indefinite.

In response, claim 41 has been amended to now now depend from claim 22. In addition, claim 41 has also been amended to remove the phrase "and/or" from this claim.

In view of the above actions taken, it is believed that this rejection has been overcome. Withdrawal of the above rejection is thus respectfully requested.

IV. REJECTIONS UNDER 35 U.S.C. § 103(a)

(i) Claims 22-23 and 37-38 have again been rejected under 35 U.S.C. 103 (a) over U.S. Patent No. 5,768,223 to Li et al ("the Li patent") in view of U.S Patent No. 5,446,791 to Wooley et al. ("the Wooley patent").

It is respectfully, asserted that the combination of Li and Wooley fails to teach or suggest an amusement device wherein the swipe card reader is adapted to receive (claim 22) or read (claim 37) information from a swipe card for activating at least two functions of the device, wherein the at least two functions activated comprises at least activation of movement and a defense for the device, as required by amended independent claim 22 and claim 37.

In particular, the Li and Wooley patent each fail to teach a swipe card adapted to

receive or read information from a swipe card for activating a defense function for the amusement device as recited in claims 22 and 37. Li, as conceded by the Examiner does not even teach a swipe card reader. Instead, Li describes a card reader but not being of the swipe card type. Moreover, Li also at the very least fails to teach or suggest having an amusement device, wherein a defense function is activated for its device, as recited in claims 22 and 37. The section of Li referred to in the instant Office action, i.e. Col. 7, lines 59-64 as disclosing the activation of a defense function is actually not describing activation of a defense function but rather only describes activation of the LED set 64, speaker unit 232, and movement of the device. Rather, Li is completely silent regarding any type of defense function being activated.

Moreover, Wooley which is relied upon merely to teach that information carried on a card can be in swipe format, fails to cure the above deficiencies of the Li reference. Again, Wooley is limited to a swipe card for controlling voice or sound synthesizers but not to an amusement device swipe card that is adapted to read or receive information from a swipe card to activate at least two functions of the device that includes at least the activation of movement and a defense for the device, as recited in claims 22 and 37.

Thus, for the reasons mentioned above, withdrawal of the rejections to claims 22 and 37 is respectfully requested. As claim 23 depends from and incorporates all of the limitations of claim 22 and claim 38 depends from and incorporates all of the limitations of 37, removal of the above rejection to these dependent claims is likewise requested.

(ii) Claims 22-23, 25-26, 32-35 and 37-41 have been rejected under 35 U.S.C. 103 (a) over U.S. Patent No. 6,071,166 to Lebensfeld et al ("the Lebensfeld patent") in view of U.S Patent No. 6,254,486 B1 to Mathieu et al. ("the Mathieu patent") and U.S. Patent No. 5,212,368 to Hara et al. ("the Hara patent").

It is respectfully asserted that the combination of Lebensfeld, Mathieu and Hara fails to teach or suggest an amusement device wherein a swipe card reader is adapted to receive (claim 22) or read (claim 37) information from a swipe card for activating (claims

22 and 37) or enhancing (claims 25 and 32) at least two functions of the device, wherein the at least two functions activated or enhanced comprises at least of activation (claims 22 and 37) or enhancement (claims 25 and 32) of movement and a defense for the device, as required by amended independent claims 22, 25, 32 and 37.

In particular, Lebensfeld and Mathieu each fail to teach or suggest the usage of a swipe card reader in conjunction with their amusement devices as required by claims 22 and 37. Moreover, Lebensfeld and Mathieu each also at the very least fail to even teach or suggest having an amusement device, wherein movement and a defense function are activated (claims 22 and 37) or enhanced (claims 25 and 32) for its device, let alone through a swipe card reader as required by claims 22 and 37. With regard to the portion of Lebensfeld, i.e. Col. 6, lines 31-34 referred to the instant Office Action as disclosing defense capabilities, Applicants respectfully disagree. Lebensfeld mentioning of "hit values" at Col. 6 lines 31-34 is not the same as a defense function. Instead, the "hit values" referred to in Lebensfeld are simply just a method of keeping score during a game. In sum, Lebensfeld and Mathieu are both completely silent regarding any type of defense function being activated in their respective amusement devices and/or the use of a swipe card reader.

Furthermore, Hara fails to cure the deficiencies of Lebensfeld and Mathieu. Hara purports to disclose a toy apparatus which includes a card reader unit for use with a card which has game parameter data stored thereon in machine-readable form. The toy apparatus also includes a calculation unit which generates player turn result data or game result data in dependence upon game parameter data read from a card. However, Hara at the very least fails to teach or suggest an amusement device wherein a swipe card reader is adapted to receive (claim 22) or read (claim 37) information from a swipe card for activating (claims 22 and 37) or enhancing (claims 25 and 32) at least two functions of the device, wherein the at least two functions activated comprises at least activation (claims 22 and 37) or enhancement (claims 25 and 32) of movement and a defense for the device, as required by amended independent claims 22, 25, 32 and 37. A swipe card reader which is involved in the activation or enhancement of both movement and a

defense for the amusement device is not taught or suggested in Hara.

Thus, for at least the reasons set forth above, the combination of Lebsensfeld, Mathieu and Hara fails to teach or suggest all of the elements recited in claims 22, 25, 32 and 37. Withdrawal of the above rejections to claims 22, 25, 32 and 37 is therefore respectfully requested. As claims 23 and 41 depend from and incorporates all of the limitations of claim 22, claim 26 depends from and incorporates all of the limitations of claim 25, claims 33-35 depend from and incorporates all of the limitations of claim 32 and claim 38 depends from and incorporates all of the limitations of claim 37, withdrawal of the rejections to these dependent is likewise requested.

(iii) Claim 24 has been rejected as being unpatentable over Li and Wooley as stated above, and further in view of U.S. Patent No.5,651,716 to Mowrer et al. ("the Mowrer patent").

The combination of Li, Wooley and Mowrer fails to teach or suggest all of the elements recited in claim 24.

As stated above, with regard to claim 22, Li and Wooley fail to teach or suggest an amusement device wherein a swipe card reader is adapted to receive information from a swipe card for activating at least two functions of the device, wherein the at least two functions activated comprises at least activation of movement and a defense for the device. Claim 24 depends from and incorporates all of the limitations of claim 22, and thus Li and Wooley likewise fail to teach or suggest all of the elements of this dependent claim as well.

Furthermore, Mowrer fails to cure the deficiencies of Li and Wooley, because Mowrer likewise fails to teach or suggest an amusement device wherein a swipe card reader is adapted to receive information from a swipe card for activating at least two functions of the device, wherein the at least two functions activated comprises at least activation of movement and a defense for the device.

For the reasons set forth above, withdrawal of the rejection to claim 24 is requested.

(iv) Claim 24 has been rejected as being unpatentable over Lebensfeld, Mathieu and Hara as stated above, and further in view of Mowrer.

The combination of Lebensfeld, Mathieu, Hara and Mowrer fails to teach or suggest all of the elements recited in claim 24.

As stated above, with regard to claim 22, Lebensfeld, Mathieu and Hara fail to teach or suggest an amusement device wherein a swipe card reader is adapted to receive information from a swipe card for activating at least two functions of the device, wherein the at least two functions activated comprises at least activation of movement and a defense for the device. Claim 24 depends from and incorporates all of the limitations of claim 22, and thus Lebensfeld, Mathieu and Hara likewise fails to teach or suggest all of the elements of this dependent claim as well.

Furthermore, Mowrer fails to cure the deficiencies of Lebensfeld, Mathieu and Hara , because Mowrer likewise fails to teach or suggest an amusement device wherein a swipe card reader is adapted to receive information from a swipe card for activating at least two functions of the device, wherein the at least two functions activated comprises at least activation of movement and a defense for the device.

For the reasons set forth above, withdrawal of the rejection to claim 24 is requested.

(v) Claims 27 and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,251,906 to Heller et al. ("the Heller patent") in view of WO 95/30973 to Broadfield ("the Broadfield publication")

The combination of Heller and Broadfield fails to teach or suggest all of the features recited in claims 27 and 36.

The Heller patent is directed to a fireball amusement game wherein players use a gun to guide a stream of balls to an intended target or objective. Moreover, the Broadfield publication relates to an amusement apparatus for children which includes a motion ride, visual display and toy vending feature in response to a financial transaction via coins or a card swipe.

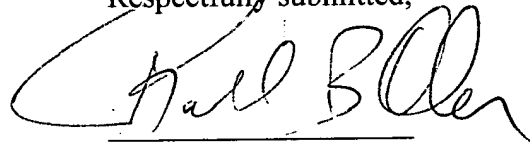
However, Heller and Broadfeld each at the very least fail to teach or suggest an amusement device, wherein said swipe card reader is also adapted to activate a defense for the device upon receiving the swipe card., as recited in claims 27 and 36. For the reasons set forth above, withdrawal of the rejections to claims 27 and 36 is respectfully requested.

V. CONCLUSION

In view of the actions taken and arguments made it is believed that all pending claims as currently presented are now in condition for allowance.

According to currently recommended Patent Office policy, the Examiner is requested to contact the undersigned at the telephone number provided below in the event that a telephone interview will advance the prosecution of this application. An early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Richard B. Klar", written over a horizontal line.

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